



Canadian Life  
and Health Insurance  
Association Inc.

To: Insurance Planning Office  
Planning and Legal Division  
Planning and Coordination Bureau  
Financial Services Agency

From: ACLI, EBC and CLHIA

Date: November 4, 2005

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We greatly appreciate being granted an opportunity to submit our comments on the "Cabinet Office Ordinance, Cabinet Office Ordinance/Ministry of Finance Ordinance and Insurance Business Law Enforcement Ordinance Regulations revising part of Insurance Business Regulation (Draft)" published by the FSA on October 12, 2005. We pay respect for all the efforts of the Insurance Planning Office, Planning and Legal Division in the Planning and Coordination Bureau of the FSA that drafted the proposed amendments. Below are our comments on the proposed amendments for your consideration.

**1. Partial revision on "Ordinance regarding special treatment of policyholders protection"**

We appreciate the FSA's direction to promote the Policyholders Protection Corporation's (hereinafter, the PPC) transparent management mentioned in the Article 37 of the proposed enforcement laws, and we strongly recommend that be secured for the following two reasons. Firstly, the PPC is, by definition, a very "public" organization. In the case of failure of insurers, the PPC protects the policies and reimburses the required policy reserves. In this way, the PPC plays an important role in maintaining trust in life insurance business. Secondly, the financial aid to the failed insurer can be first achieved by the contributions from sound insurers. That is, the support of the PPC is entirely relied on each member's contribution. Thus, needless to say, transparent management is essential.

This should be achieved by effective execution of the revised Article 37, which

obligates the PPC to mention the constituencies of Operating Committee/Assessment Committee and the meeting minutes (the outline of discussions and the resolutions, etc) in its annual report. In addition to this clarification, we would like the FSA to ensure that the PPC takes necessary measures to enable the members to effectively participate in every important decision such as the funding system and contribution amounts.

Without such practical and meaningful measures in the administration, it is impossible to achieve transparency of the PPC, which is necessary to treat all policyholders' interests fairly.

## 2. Revision of "the Enforcement law of the IBL" and "Ordinance regarding special treatment of policyholders protection" related

Our basic stance concerning policyholder protection remains unchanged. In principle, we feel that the best way to ensure consumer protection is through effective macro-level supervision. We note the FSA's increased vigilance in monitoring the health of the insurance industry, and welcome this development. At the same time, we are disappointed that more has not been done to alleviate the substantial burden associated with pre-funding the life policyholder protection corporation. Eventually, we would like to see a post-funded system introduced with calculation methods that take into account the economics of specific product classes and potential risks to policyholders.

We understand that proposed Ordinance regarding special treatment of policyholders protection article 50-3 provides that the PPC covers variable life insurance and variable annuities with minimum guarantee.

With regards to the methodology used to calculate contributions, we have the following comments.

### (1) The PPC's coverage on premium reserves for minimum guarantees of variable life and variable annuity products

From fiscal 2005, insurers are required to accumulate "premium reserves" and "contingency reserves III" in order to reasonably and appropriately manage the minimum guarantee risk of variable life insurance and variable annuities (hereinafter variable products), whose assets are held in the special account. This

was obliged through “Notice and Administrative Guidelines regarding Reserves on Minimum Guarantee Risk of Variable Annuities (current “Comprehensive Guidelines for Insurers”) ” proposed last year. Insurers are required to assess the reserves of variable products in the special account as of March 31 and September 30 every year, and to accumulate reserves calculated against future minimum guarantee risk as premium reserves in the general account. Thus, we would like to confirm that these “premium reserves“ for the minimum guarantees of variable products would be covered by the PPC the same as the reserves of any other products in the general account.

(2) Revision of calculation in assessing contribution to the PPC

It should be stressed that the policyholders of variable products with minimum guarantees bear all the investment risk, the same as the policyholders of variable products without such guarantee features, unless the conditions of minimum guarantees are fulfilled, either death or maturity of investment, where the account values at those points of time are below the premiums invested. The difference between products with & without guarantees is an extra charge to the policyholder for the guarantee, & an extra risk for the insurer arising from that guarantee. For business sold since 1/4/05, the reserve for this risk is the minimum guarantee reserve in the general account, and for business sold before 1/4/05, the new cash flow testing requirement will ensure that there are sufficient minimum guarantee reserves by requiring the accumulation of extra general account reserves to satisfy the cash flow testing requirements.

Given those, then, it is obvious that only the aforementioned premium reserves in the general account can be deemed as having an impact on the financial status of insurers in terms of bankruptcy, and the reserves in the special account are irrelevant in this regard.

Therefore, we would like to confirm that premiums and reserves in the special account of variable products with guarantee features should be excluded from the contribution assessment. Currently, the assessment of the contribution does not consider the difference between the reserves in the special account and those in the general account, however, from the viewpoint of the policyholders of variable products, this only imposes unfair and excessive contribution to them indirectly. We believe it most appropriate that the contribution for variable products with minimum guarantees should be based only on the reserves for such features in the general account.

**About the American Council of Life Insurers (ACLI)**

The American Council of Life Insurers (ACLI) is a unified voice for the United States life insurance and reinsurance, pension and retirement security industries that is the focal point of expertise of member companies with 250 years of experience protecting families and businesses in the U.S. and in markets around the world. At home the ACLI shapes public debate by providing expert research to decision makers and educational resources to consumers. Internationally, ACLI provides industry expertise and policy positions to regulators, national trade and fiscal authorities, legislatures and other national leaders, international institutions and academic and economic research institutions. Additional information is available at [www.acli.com](http://www.acli.com).

**About the European Business Community (EBC)**

The European Business Community (EBC) is the trade policy arm of the 13 European National Chambers of Commerce and business associations in Japan. First established in 1972, the EBC works to improve the trade and investment environment for European companies in Japan. The EBC currently represents more than 3,000 local European companies and individuals who are members of their national chambers of commerce. Around 360 of the companies participate directly in the EBC's 27 industry committees and subcommittees, including the Insurance Committee, whose work aims to improve the local business environment in a wide variety of industry sectors. Additional information is available at [www.ebc-jp.com](http://www.ebc-jp.com).

**About the Canadian Life & Health Insurance Association Inc. (CLHIA)**

The Canadian Life & Health Insurance Association Inc. (CLHIA), established in 1894, represents 72 life and health insurance companies, which together account for about 97 per cent of the life and health insurance in force in Canada, and administer about two-thirds of the pension plans in the country. Canadian life and health insurers receive over 55 per cent of their worldwide premiums from outside Canada. Additional information is available at [www.clhia.ca](http://www.clhia.ca).

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